

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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E. ARMATA, INC.,

Plaintiff,

-against-

EAST END PRODUCE, INC. and DENNIS  
J. SCHMIDT,

Defendants.  
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**APPEARANCES:**

**McCarron & Diess**

*Attorneys for the Plaintiff*

707 Walt Whitman Road, 2<sup>nd</sup> Floor

Melville, NY 11747

By: Gregory A. Brown, Esq., Of Counsel

**NO APPEARANCES:**

**East End Produce, Inc.**

*Defendant*

**Dennis J. Schmidt**

*Defendant*

**SPATT, District Judge:**

On January 6, 2015, the Plaintiff E. Armata, Inc. (the “Plaintiff” or “Armata”) commenced this action against the Defendant East End Produce, Inc. (“East End”), and its corporate officer Dennis J. Schmidt (“Schmidt”, together with East End, the “Defendants”), pursuant to Section 5(c)(5) of the Perishable Agricultural Commodities Act (“PACA”), 7 U.S.C. § 499e(c)(5), to recover unpaid amounts due for certain wholesale quantities of produce that Armata sold and delivered to East End.

On April 4, 2015, the Clerk of the Court noted the Defendants' default.

On April 7, 2015, the Plaintiff moved for a default judgment.

On April 8, 2015, this Court referred the matter to United States Magistrate Judge Arlene Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorneys' fees and costs.

On January 7, 2016, Judge Lindsay issued a Report and Recommendation ("R&R"), recommending that a default judgment be entered in favor of the Plaintiff and that damages be awarded in the amount of \$15,369, plus interest in the amount of \$1,646.48 through April 4, 2014, and attorneys' fees of \$5,217.80.

On that same day, namely, January 7, 2016, the Plaintiff served copies of the R&R upon the Defendants, and filed a related proof of service.

On January 11, 2016, counsel for the Plaintiff, Gregory Brown, Esq., filed a Certificate of Service, indicating that the original attempt to serve the R&R upon the Defendant Schmidt had been unsuccessful, and that a second attempt had been made at an additional address. In a letter to the Court dated January 25, 2016, counsel confirmed that this second attempt had been successful.

More than fourteen days have elapsed since service of the R&R on the Defendants, each of whom has failed to file an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the January 7, 2016 Report and Recommendations is adopted in its entirety, and the Plaintiff's motion for a default judgment is granted. The Clerk of the Court is respectfully directed to enter judgment in favor of the Plaintiffs in the amount of \$15,369, plus interest and attorneys' fees, as set forth above, and to close this case.

It is **SO ORDERED**

Dated: Central Islip, New York  
March 9, 2016

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge